

House File 495 - Introduced

HOUSE FILE 495

BY HUNTER

A BILL FOR

1 An Act relating to law enforcement activities, including the
2 establishment of citizens' review boards to review racial
3 profiling by security agents and requiring peace officers to
4 wear body cameras.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 13D.1 Racial profiling — citizens'
2 review board — remedies and disciplinary action — data
3 collection.

4 1. As used in this section, unless the context otherwise
5 requires:

6 *a. "Law enforcement agency"* means any state, local, or
7 tribal law enforcement agency engaged in the prevention,
8 detection, or investigation of violations of criminal,
9 immigration, or customs laws. *"Law enforcement agency"* also
10 includes a private security business licensed under chapter
11 80A, or any other agency providing security at a place of
12 business.

13 *b. "Racial profiling"* means the practice of a security agent
14 or law enforcement agency relying, to any degree, on race,
15 ethnicity, national origin, or religion in selecting which
16 individuals are subject to routine or spontaneous investigatory
17 activities or in deciding upon the scope and substance of
18 law enforcement activity following the initial investigatory
19 procedure, except when there is trustworthy information,
20 relevant to the locality and time frame, that links a person of
21 a particular race, ethnicity, national origin, or religion to
22 an identified criminal incident or scheme.

23 *c. "Security agent"* means a peace officer as defined in
24 section 801.4, subsection 11, paragraph "a", "b", "c", "f",
25 "g", or "h", a certified law enforcement officer under section
26 80B.18, a person who is an employee or agent of a private
27 security business licensed under chapter 80A, or any other
28 person who is designated to provide security at a business.

29 2. A security agent or law enforcement agency shall not
30 engage in racial profiling.

31 3. *a.* The state and each political subdivision of the
32 state shall establish a citizens' review board to review
33 complaints of racial profiling made against a law enforcement
34 agency or security agent within their respective jurisdiction.
35 The majority of the membership of each board shall consist

1 of people from minority groups disproportionately impacted
2 by racial profiling and persons who are not security agents.
3 Each board shall establish policies and procedures designed to
4 assist in the elimination of racial profiling.

5 *b.* After review of a racial profiling complaint, a board
6 shall inform the complainant of any possible remedies that may
7 be available to the complainant. The findings of the citizens'
8 review board shall be admissible in any criminal or civil
9 proceeding.

10 4. A person or the department of justice may bring an action
11 in district court to enjoin a violation of this section.

12 5. *a.* If a citizens' review board finds that a security
13 agent who is a peace officer or certified law enforcement
14 officer described in subsection 1, paragraph "c", engaged in
15 racial profiling, the citizens' review board shall notify the
16 law enforcement agency with whom the security agent is employed
17 and the law enforcement agency shall initiate procedures to
18 suspend the security agent from performing the security agent's
19 official duties. If such security agent is found to have
20 engaged in racial profiling a second time by the board, the law
21 enforcement agency shall initiate procedures to suspend the
22 security agent for a longer period than the first suspension.
23 Upon a third or subsequent finding that such security agent
24 has engaged in racial profiling, the law enforcement agency
25 shall initiate procedures to dismiss the security agent from
26 performing the official duties of the agent.

27 *b.* If the security agent is an employee or agent of a
28 private security business licensed under chapter 80A, or
29 any other person who is designated to provide security at a
30 business, and the board finds the security agent engaged in
31 racial profiling, the board shall notify the security agent
32 that the security agent has engaged in racial profiling. The
33 board shall also provide notification to the employer of the
34 agent, if applicable, and the place of business where the
35 security agent provides security.

1 6. Notwithstanding any other provision of law to the
2 contrary, prior to receiving any moneys from the state,
3 whether through a grant or otherwise, a law enforcement agency
4 shall certify that the agency maintains adequate policies and
5 procedures for eliminating any existing practices that permit
6 or encourage racial profiling.

7 7. *a.* The department of justice may enter into contracts
8 for the collection of data relating to racial profiling and
9 for the development of best practices and systems to eliminate
10 racial profiling.

11 *b.* The department of justice shall adopt rules pursuant
12 to chapter 17A for the collection and compilation of data on
13 racial profiling and for the implementation of this section.

14 Sec. 2. Section 22.7, subsection 5, Code 2015, is amended
15 to read as follows:

16 5. Peace officers' investigative reports, and specific
17 portions of electronic mail and telephone billing records of
18 law enforcement agencies if that information is part of an
19 ongoing investigation, except where disclosure is authorized
20 elsewhere in this Code. However, the date, time, specific
21 location, and immediate facts and circumstances surrounding a
22 crime or incident shall not be kept confidential under this
23 section, except in those unusual circumstances where disclosure
24 would plainly and seriously jeopardize an investigation or pose
25 a clear and present danger to the safety of an individual.
26 Specific portions of electronic mail and telephone billing
27 records may only be kept confidential under this subsection if
28 the length of time prescribed for commencement of prosecution
29 or the finding of an indictment or information under the
30 statute of limitations applicable to the crime that is under
31 investigation has not expired. The contents of a body camera
32 recording shall be kept confidential and the release of the
33 contents of such a recording shall be governed by section
34 80C.1.

35 Sec. 3. NEW SECTION. 80C.1 Peace officer body cameras —

1 requirement — confidentiality.

2 1. As used in this section unless the context otherwise
3 requires:

4 a. "*Agency*" means a law enforcement agency.

5 b. "*Body camera*" means an electronic device that is capable
6 of recording video and audio data or capable of transmitting
7 video and audio data to be recorded remotely, and is worn on
8 the person of a peace officer, which includes being attached to
9 the officer's clothing or worn on glasses.

10 c. "*Peace officer*" means a peace officer defined in section
11 801.4, subsection 11, paragraphs "a", "b", "c", "f", "g",
12 "h", and "i". "*Peace officer*" also includes a certified law
13 enforcement officer under section 80B.18.

14 2. A peace officer shall wear a body camera at all times
15 while on duty and in uniform and shall record using the camera
16 all interactions with people in the performance of the official
17 duties of the peace officer from the beginning to the end of
18 those interactions.

19 3. A body camera shall be worn on the chest or at the eye
20 level of the peace officer.

21 4. A body camera shall not contain facial recognition
22 technology unless the use of such technology has been
23 authorized by the court pursuant to an arrest warrant or a
24 search warrant.

25 5. A peace officer shall inform a person when that person
26 is being recorded by a body camera unless informing the person
27 would be unsafe, impractical, or impossible.

28 a. If a peace officer wearing a body camera enters a
29 residence without a warrant or where no exigent circumstances
30 exist, the peace officer shall immediately ask whether the
31 resident desires the peace officer to stop the body camera
32 recording while the peace officer is in the residence. If the
33 resident responds in the affirmative, the peace officer shall
34 stop the body camera recording. The peace officer shall record
35 the question required by this paragraph and any answer to the

1 question.

2 *b.* If a peace officer wearing a body camera interacts with
3 a person reporting a crime, providing information regarding
4 a crime or ongoing investigation, or claiming to be a victim
5 of a crime, the peace officer shall immediately ask whether
6 the person desires the peace officer to stop the body camera
7 recording of the interaction. If the person responds in the
8 affirmative, the peace officer shall stop the body camera
9 recording. The peace officer shall record the question
10 required by this paragraph and any answer to the question.

11 6. *a.* Except as otherwise provided in this subsection, an
12 agency shall retain the contents of a recording created by a
13 body camera for thirty days.

14 *b.* An agency shall retain the contents of a recording
15 created by a body camera for three years if any of the
16 following apply:

17 (1) The recording depicts an incident involving the use of
18 force.

19 (2) The recording depicts an incident that leads to
20 detention or arrest of a person.

21 (3) The recording is relevant to a formal or informal
22 complaint against a peace officer or agency.

23 (4) A request regarding the recording has been made pursuant
24 to paragraph "e".

25 *c.* If the contents of a recording created by a body camera
26 may be used in a criminal prosecution, the agency shall retain
27 the contents of such recording in the same manner as other
28 evidence in the criminal prosecution and the time period to
29 retain the contents of the recording under paragraph "a" or "b"
30 shall be extended to equal the time period for the retention of
31 other evidence that may be use in the criminal prosecution.

32 *d.* An agency shall post on the public internet site of the
33 agency its policies relating to the retention of recordings
34 created by body cameras, requests for the retention of the
35 recordings, and requests for copies of such recordings.

1 e. (1) A person described in subparagraph (3) may request
2 that the contents of a recording created by a body camera be
3 retained by the agency for three years. Such a person is not
4 required to file a complaint or the contents of the recording
5 are not required to be part of an investigation in order for a
6 person to make a request under this paragraph.

7 (2) A person described in subparagraph (3) may view and make
8 a copy of the contents of a recording created by a body camera.
9 The agency retaining the contents of the recording shall
10 provide such a person with a copy of the requested recording.

11 (3) Any of the following persons may make a request that the
12 contents of a recording created by a body camera be retained
13 under paragraph "b":

14 (a) A person who is part of the content of the recording.

15 (b) A person whose property has been seized or damaged in
16 relation to, or is otherwise involved with, a crime that is
17 related to the recording.

18 (c) A parent or legal guardian of a person described in
19 subparagraph division (a) or (b).

20 (d) An attorney for a person described in subparagraph
21 division (a) or (b).

22 (e) Any other person if the person described in subparagraph
23 division (a) or (b) has given written authority to the agency
24 to disclose the contents of the recording to the other person.

25 f. A person, who is not a part of the content of a recording
26 created by a body camera, may request a copy of such recording
27 if each person who is part of the content of such a recording
28 consents in writing. If consent is obtained, the agency shall
29 provide the requesting person with a copy of the contents of
30 such a recording.

31 g. Prior to deleting or disposing of the contents of a
32 recording created by a body camera, the person who has the
33 responsibility of deleting or disposing of such a recording on
34 behalf of the agency, shall review all applicable and available
35 records, files, and databases to ascertain whether any reason

1 exists that the recording should not be deleted or disposed of
2 under this section or under the policies of the agency. The
3 contents of such a recording shall not be deleted or disposed
4 of if such a reason exists.

5 7. A peace officer who fails to record any interaction as
6 required by this section or who fails to stop recording an
7 interaction as required by this section shall be considered
8 to have committed a violation of this section. For a first
9 violation a peace officer shall be given a written reprimand.
10 For a second or subsequent violation the peace officer shall
11 be suspended until an investigation into the cause of the
12 violation has been completed.

13 8. If an agency is unable to produce a body camera recording
14 during a criminal prosecution or civil action which is required
15 to be made and retained pursuant to this section, a rebuttable
16 presumption arises that the recording would corroborate the
17 version of the facts advanced by the defendant in the criminal
18 action or the party opposing the peace officer or agency in the
19 civil action.

20 9. The agency shall participate in any existing state or
21 federal programs that fund or supplement the costs to purchase
22 and maintain body cameras worn by peace officers.

23 Sec. 4. IMPLEMENTATION OF ACT. Section 25B.2, subsection
24 3, shall not apply to this Act.

25 EXPLANATION

26 The inclusion of this explanation does not constitute agreement with
27 the explanation's substance by the members of the general assembly.

28 This bill relates to racial profiling by security agents and
29 requires peace officers to wear body cameras.

30 RACIAL PROFILING — CITIZENS' REVIEW BOARD. The bill
31 defines "racial profiling" to mean the practice of a security
32 agent or law enforcement agency relying, to any degree, on
33 race, ethnicity, national origin, or religion in selecting
34 which individuals are subject to routine or spontaneous
35 investigatory activities or in deciding upon the scope and

1 substance of law enforcement activity following the initial
2 investigatory procedure, except when there is trustworthy
3 information, relevant to the locality and time frame, that
4 links a person of a particular race, ethnicity, national
5 origin, or religion to an identified criminal incident or
6 scheme. The bill defines "security agent" to mean a peace
7 officer as defined in Code section 801.4(11)(a), (b), (c),
8 (f), (g), or (h), a certified law enforcement officer under
9 Code section 80B.18, a person who is an employee or agent of
10 a private security business licensed under Code chapter 80A,
11 or any other person who is designated to provide security at a
12 business. The bill also defines "law enforcement agency" to
13 mean any state, local, or tribal law enforcement agency engaged
14 in the prevention, detection, or investigation of violations
15 of criminal, immigration, or customs laws. "Law enforcement
16 agency" also includes a private security business licensed
17 under Code chapter 80A, or any other person providing security
18 at a place of business.

19 The bill prohibits a security agent or law enforcement
20 agency from engaging in racial profiling.

21 The bill requires the state and each political subdivision
22 of the state to establish a citizens' review board to review
23 complaints of racial profiling made against a law enforcement
24 agency or security agent within their respective jurisdiction.
25 The majority of the membership of the board shall consist of
26 people from minority groups disproportionately impacted by
27 racial profiling and persons who are not security agents. The
28 board shall establish policies and procedures designed to
29 assist in the elimination of racial profiling.

30 The bill provides that the citizens' review board shall
31 inform the complainant of any possible remedies that may be
32 available to the complainant. The bill specifies that the
33 findings of the citizens' review board shall be admissible in
34 any criminal or civil proceeding.

35 If a citizens' review board finds that a security agent

1 who is a peace officer or certified law enforcement officer
2 engaged in racial profiling, the bill requires that the board
3 notify the agency employing the security agent and the agency
4 shall initiate procedures to suspend the security agent from
5 performing the security agent's official duties. If such
6 security agent is found to have engaged in racial profiling
7 a second time by the board, the bill requires the agency to
8 initiate procedures to suspend the security agent for a longer
9 period than the first suspension. Upon a third or subsequent
10 finding that such security agent has engaged in racial
11 profiling, the agency shall initiate procedures to dismiss
12 the security agent from performing the official duties of the
13 agent.

14 If the security agent is an employee or agent of a private
15 security business licensed under Code chapter 80A, or any other
16 person who is designated to provide security at a business,
17 and the board finds the security agent engaged in racial
18 profiling, the bill requires the board to notify the security
19 agent that the security agent has engaged in racial profiling.
20 The bill also provides that the citizens' review board shall
21 also provide such notification to the employer of the agent, if
22 applicable, and the place of business where the security agent
23 provides security.

24 The bill specifies that a person or the department of justice
25 may bring an action to enjoin a violation of the bill.

26 Prior to a law enforcement agency receiving moneys from the
27 state, the bill requires the agency to certify that the agency
28 maintains adequate policies and procedures for eliminating any
29 existing practices that permit or encourage racial profiling.

30 The department of justice may enter into contracts for the
31 collection of data relating to the bill and for the development
32 of best practices and systems to eliminate racial profiling.

33 The bill specifies that the department of justice shall
34 adopt rules pursuant to Code chapter 17A for the collection
35 and compilation of data on racial profiling and for the

1 implementation of the bill.

2 BODY CAMERAS. The bill defines "agency" to mean a law
3 enforcement agency.

4 The bill defines "body camera" to mean an electronic device
5 that is capable of recording video and audio data or capable of
6 transmitting video and audio data to be recorded remotely, and
7 is worn on the person of a peace officer.

8 The body camera requirement applies to a county sheriff
9 or deputy sheriff, city peace officer, peace officer member
10 of the department of public safety, peace officer at a
11 regents institution, conservation officer, an employee of the
12 department of transportation designated as a peace officer,
13 an employee of an aviation authority designated as a peace
14 officer, and a certified tribal law enforcement officer.

15 The bill requires a peace officer to wear a body camera
16 at all times while on duty and in uniform. The bill further
17 requires that the peace officer record all interactions with
18 people in the performance of the official duties of the peace
19 officer from the beginning to the end of those interactions.

20 The bill specifies that a body camera must be worn on the
21 chest or at the eye level of the peace officer.

22 The bill prohibits a body camera from containing facial
23 recognition technology unless the use of such technology has
24 been authorized by the court pursuant to an arrest or search
25 warrant.

26 The bill requires a peace officer to inform a person when
27 that person is being recorded by a body camera unless informing
28 the person would be unsafe, impractical, or impossible.

29 If a peace officer who is wearing a body camera enters a
30 residence without a warrant or where no exigent circumstances
31 exist, the bill requires that the peace officer immediately ask
32 whether the resident desires the peace officer to stop the body
33 camera recording while the peace officer is in the residence.
34 If the person responds in the affirmative, the bill requires
35 the peace officer to stop the body camera recording. The bill

1 also requires the peace officer to record the question and any
2 answer to the question.

3 If a peace officer wearing a body camera interacts with a
4 person reporting a crime, providing information regarding a
5 crime or ongoing investigation, or claiming to be a victim of a
6 crime, the bill requires the peace officer to immediately ask
7 whether the person desires the peace officer to stop the body
8 camera recording of the interaction. If the person responds in
9 the affirmative, the bill requires the peace officer to stop
10 the body camera recording. The bill also requires the peace
11 officer to record the question and any answer to the question.

12 The contents of a recording created by a body camera are
13 confidential except as provided for in the bill.

14 The bill requires that an agency shall retain the contents
15 of a recording created by a body camera for 30 days. However,
16 an agency shall retain the contents of a recording created by
17 a body camera for three years if any of the following apply:
18 the recording depicts an incident involving the use of force;
19 the recording depicts an incident that leads to detention or
20 arrest of a person; the recording is relevant to a formal
21 or informal complaint against a peace officer or agency; or
22 a request has been made to retain the recording. Under the
23 bill, the contents of the recording may be retained even longer
24 than three years if the contents may be relevant to a criminal
25 prosecution.

26 Any of the following persons may make a request that the
27 contents of a recording created by a body camera be retained
28 for three years: a person who is a part of the content of the
29 recording; a person whose property has been seized or damaged
30 in relation to, or is otherwise involved with, a crime that is
31 related to the recording; a parent or guardian of a person who
32 is part of the content of the recording or whose property was
33 seized, damaged, or involved with a crime that is related to
34 the recording; the attorney for a person who is part of the
35 content of the recording or whose property was seized, damaged,

1 or involved with a crime that is related to the recording; any
2 other person if such person has been given written authority
3 to disclose the contents of the recording by the person who
4 is part of the content of the recording or whose property was
5 seized or damaged.

6 The bill provides that a person, who is not a part of the
7 content of a recording created by a body camera, may request a
8 copy of and receive such recording if each person who is part
9 of the content of the recording consents in writing.

10 Prior to deleting or disposing of the contents of a recording
11 created by a body camera, the bill requires the person who has
12 the responsibility of deleting or disposing of such a recording
13 on behalf of the agency, to review all applicable and available
14 records, files, and databases to ascertain whether any reason
15 exists that the recording should not be disposed of or deleted.

16 A peace officer who fails to record any interaction with
17 a person or who fails to stop recording such interaction
18 as required by the bill commits a violation. For a first
19 violation of the bill a peace officer shall be given a written
20 reprimand. For a second or subsequent violation of the bill
21 the peace officer shall be suspended until an investigation
22 into the cause of the violation has been completed.

23 The bill also provides that if an agency is unable to produce
24 a body camera recording during a criminal prosecution or civil
25 action, a rebuttable presumption arises that the recording
26 would corroborate the version of the facts advanced by the
27 defendant in the criminal action or the party opposing the
28 peace officer or agency in the civil action.

29 The bill specifies that an agency shall participate in any
30 existing state or federal programs that fund or supplement
31 the costs to purchase and maintain body cameras worn by peace
32 officers.

33 The bill may include a state mandate as defined in Code
34 section 25B.3. The bill makes inapplicable Code section 25B.2,
35 subsection 3, which would relieve a political subdivision from

1 complying with a state mandate if funding for the cost of
2 the state mandate is not provided or specified. Therefore,
3 political subdivisions are required to comply with any state
4 mandate included in the bill.